

Serial No. 09/981238, filed 10/17/2001

REMARKS

Claims 1-8, 10-11 and 14 are presently pending in the application. Claims 1 and 11 are in independent form.

Claim 1 was rejected under §112, second paragraph for reciting "driven shafts." Claim 1 was already amended in the last response to change the plural "shafts" to recite a singular "shaft." The Examiner appears to have missed the strike though in amended claim 1. Applicant has not amended claim 1 here so as to avoid confusing the issue. If the Examiner wishes the Applicant to amend the language again, the Applicant will do so in the next office action. Although no amendments have been made in this response, Applicants have reproduced the claims to reflect the prior amendment to claim 1.

Claims 1-7, 10-11 and 14 were rejected under §103 over Glaze in view of Miller. Glaze fails to recite the seal arrangement in independent claims 1 and 11. Glaze is directed to a bearing arrangement that configured to facilitate bearing assembly insertion for the differential. There is no mention of different lubricants or providing separate lubrication chambers. There is no discussion about the driven shaft in Glaze or any special lubrication concerns relating to its bearings. Why, then, would one of ordinary skill be motivated to modify Glaze? The Examiner provides a motivation of providing "a bearing sealed on both ends so as to divide the assembly into two chambers, each having a different lubricant, and prevent the lubricants from entering adjacent chambers." Again, separate chambers do not exist in Glaze.

Miller is directed to providing a sealed cartridge bearing assembly to support the driven shaft. However, Glaze does not use a cartridge bearing design to support its driven shaft. Accordingly, Glaze does not benefit from the Miller seal arrangement. There is no teaching in either reference to motivate one of ordinary skill to modify Glaze. The combination is improper and must be withdrawn. And despite the Examiner's assertion, Miller does not disclose two chambers receiving lubricants of a distinct composition.

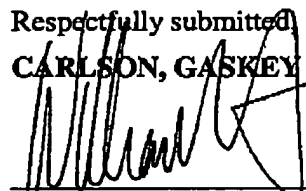
Claims 3-5 are also allowable for the reasons argued in Applicant's November 30, 2003 response. The Examiner must address these arguments or allow the claims.

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Claim 8 is rejected under §103 over Glaze in view of Miller in further view of Tersigni. Claim 8 recites a GL5 additive. The Examiner argues that the base reference would be modified "to increase efficiency, reduce friction and reduce corrosion of the axle assembly." First, there is nothing in Glaze or Miller that teaches either would benefit from GL5 additive. The Examiner is merely picking and choosing elements from the references to make the combination. Second, GL5 additive had drawbacks associated with its use, which are discussed on the first page of Applicant's specification. Thus, it is just as likely that one of ordinary skill would be motivated to avoid the use of GL5 additive. The Examiner has not established a prima facie case of obviousness 1) since there is no need or benefit taught in any of the references to modify Glaze or Miller to use GL5 additive and 2) since there is reason to avoid using GL5. The combination is improper and the rejection must be withdrawn.

For the reasons set forth above, Applicant submits that the pending claims in the application are allowable. Applicant respectfully solicits allowance of these claims. If any fees or extensions of time are required, please charge to Deposit Account No. 50-1482.

Respectfully submitted
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